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Dual executive branch/university system



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PERSONNEL AND LABOR RELATIONS STUDY COMMISSION

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STAFF REPORT NO. 20

DUAL
EXECUTIVE BRANCH/UNIVERSITY SYSTEM
BARGAINING RESPONSIBILITY

Objective: To provide information to the Personnel and Labor
Relations Study Commission on STUDY QUESTION 22:

Should there be a single collective bargaining function
within the executive branch?

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I. INTRODUCTION

The responsibility for collective bargaining within the executive branch is split between the Board of Regents, for the University System, and the Governor, for all executive departments except the University System. This split responsibility creates the potential for the executive branch and the University System to trip each other up and for the unions to whipsaw management for concessions in bargaining.

This paper will (1) examine the practices and experiences of other jurisdictions as well as the views of representatives of the University System and the executive branch, and (2) report on the desirability of consolidating all collective bargaining responsibility in a single function within the executive branch.

II. REVIEW OF OTHER JURISDICTIONS

A breakdown of how all other states have organized their university system's collective bargaining responsibilities is presented in Appendix A.

In a telephone survey of New York, New Jersey, Pennsylvania, and Vermont (four of the five states in which collective bargaining responsibilities are unified), state representatives generally indicated a preference for retaining control of university system negotiations. This control currently ranges from a coordinating effort in New Jersey, where the state oversees and approves or disapproves the university system's negotiations, to direct control in New York, where no distinction is made between university system employees and all other public employees.

These same state representatives, however, also revealed that their university systems, if given a choice, would most likely choose to have separate uncontrolled collective bargaining negotiations similar to Montana's current set-up. The major reason cited for wanting separate negotiations is the difference in operations between a university system and the rest of the state, including the various types of programs found in systems of higher education, the length of the work year, funding for grants and scholarships, etc. State representatives agreed that because of these differences, negotiations with university systems require people who are sensitive to the unique problems involved in higher education.

In a second survey, this time of South Dakota, Michigan, and Maine (three of the states in which collective bargaining responsibilities are separated, as in Montana), state representatives again indicated a preference for more control over negotiations involving their university

systems. They all agreed, however, that two obstacles stand in the way of achieving such control: first, because there have been no significant problems arising from the separation, there appears to be no reason for combining the collective bargaining responsibilities; and second, the universities themselves, which could be expected to resist all outside attempts at controlling their collective bargaining negotiations.

Briefly summarized, the results of these two surveys appear to draw the same conclusion; that is, while all parties generally agree that universities face some rather unique problems, a standoff exists between state administrations, which would prefer to have more control of their universities' negotiations, and the universities themselves, which want as much autonomy as possible. It also appears that any attempts to centralize negotiations in those states currently having separate negotiations will be met with such stiff resistance that the efforts to consolidate may never be made, particularly if no significant problems arise in the future.

- III. VIEWS OF MONTANA'S EXECUTIVE BRANCH AND UNIVERSITY SYSTEM
- Montana's executive branch, represented by the Labor Relations Bureau, Department of Administration, holds a view similar to that of the other twenty-three states whose collective bargaining responsibilities are split. The executive branch would ideally prefer to have more coordination, if not control, of the University System's negotiations so the state could present a more unified front toward labor. Representatives of the State also believe that better coordination will reduce or eliminate the use of whipsawing by public sector labor organizations and the resulting disparities in blue collar and other units' wages.

The University System, on the other hand, has indicated its intent to resist any efforts to dissolve its autonomy. University System Representatives, headed by the Board of Regents, list a number of reasons for taking this position:

1. Above all else, the Board of Regents has constitutional authority to "supervise, coordinate, manage and control the Montana University System..." (Article X, Section 9(2)(a), 1972 Montana Constitution). This constitutional authority, resulting in considerable autonomy for the Board of Regents, has been challenged, but upheld in Montana's Supreme Court (Board of Regents v Judge, 168 Mont. 433, 543 P. 2d 1323 (1975)).

2. Because of effective cooperation between the University System and the Labor Relations Bureau, there have been few problems arising from the separation of collective bargaining responsibilities in the past, so there is no reason to alter the system now.
3. Negotiating with the University System requires individuals who are sensitive to and knowledgeable in the problem areas faced by institutions of higher education, including educational programs, financing, manpower needs, etc. In short, a teamwork approach is necessary, and the Labor Relations Bureau has neither the resources nor the expertise required.
4. Combining the collective bargaining responsibilities would not necessarily improve human resource utilization, since additional FTEs might be required to handle the increased workload. This workload would require resources not only to negotiate the added University System contracts, but also to assist in administering them.
5. A coalition of collective bargaining responsibilities would not necessarily result in more equitable pay structures between University System and other State employees, because the University System is not required to adopt the same pay structure as other State employees utilize. It should be recognized, however, that the University System is complying with a legislative directive to close existing wage disparities between University System and other State employees.

A suggestion for compromise, offered by the University System and the executive branch, is to increase the cooperation between the two groups through more frequent exchanges of information. Representatives of both groups are currently examining the idea of inviting a University System participant to those meetings of the Collective Bargaining Policy Task Force at which economic issues and parameters will be discussed and, similarly, an executive branch participant to economic policy meetings of the Board of Regents.

IV. OPTIONS:

With regard to whether the University System's collective bargaining responsibility should be consolidated with that

of the executive branch, the following options are presented for the Commission's consideration:

Option 1: Combine the University system and other executive branch collective bargaining responsibilities in a single function within the executive branch.

The primary advantage of this option would be a unified collective bargaining function, ensuring cooperation and coordination of negotiations between the State and its organized public employees. Another advantage might be a monetary savings to the State if University System employee wages could be better aligned with those of other State employees.

The major disadvantage would be University System opposition. The first and most formidable obstacle would be gaining enough support throughout the State to pass the constitutional amendment necessary to override the Board of Regent's constitutional authority. If this could ever be accomplished, and all indications are negative, a period of adjustment would then be required in which the University System would have to become accustomed to a much more limited degree of autonomy than that enjoyed previously. This adjustment period would also be a time for the State labor relations bureau to reorganize in order to accommodate the increased workload.

Option 2: Maintain separate collective bargaining responsibilities between the University System and the rest of the executive branch.

To adopt this option would be to forego (1) the potential of lengthy and costly court battles over the Board of Regents' constitutional authority, and (2) the time, cost, and trouble of attempting to pass a constitutional amendment. As noted earlier, representatives of the University System have indicated their intention to resist all efforts to dissolve the University System's constitutional autonomy.

Adopting this option might also permit whipsawing to continue. However, representatives from both the University System and the labor relations bureau have indicated a renewed willingness to work closely together in order to coordinate the State's position, and thus, prevent the use of whipsawing tactics.

APPENDIX 'A'

Autonomous Negotiations

Alaska
California
Connecticut
Delaware
Florida
Illinois
Iowa
Kansas
Kentucky
Maine
Maryland
Massachusetts
Michigan
Minnesota
Montana
Nebraska
New Hampshire
Ohio
Oklahoma
Oregon
Rhode Island
South Dakota
Tennessee
(24) Washington

Unified Negotiations

Hawaii
New Jersey
New York
Pennsylvania
(5) Vermont

No Collective Bargaining For Higher Education (Faculty)

Alabama
Arizona
Arkansas
Colorado
Georgia
Idaho
Indiana
Louisiana
Mississippi
Missouri
Nevada
New Mexico
North Carolina
North Dakota
South Carolina
Texas
Utah
Virginia
West Virginia
Wisconsin
(21) Wyoming

